IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF PUERTO RICO

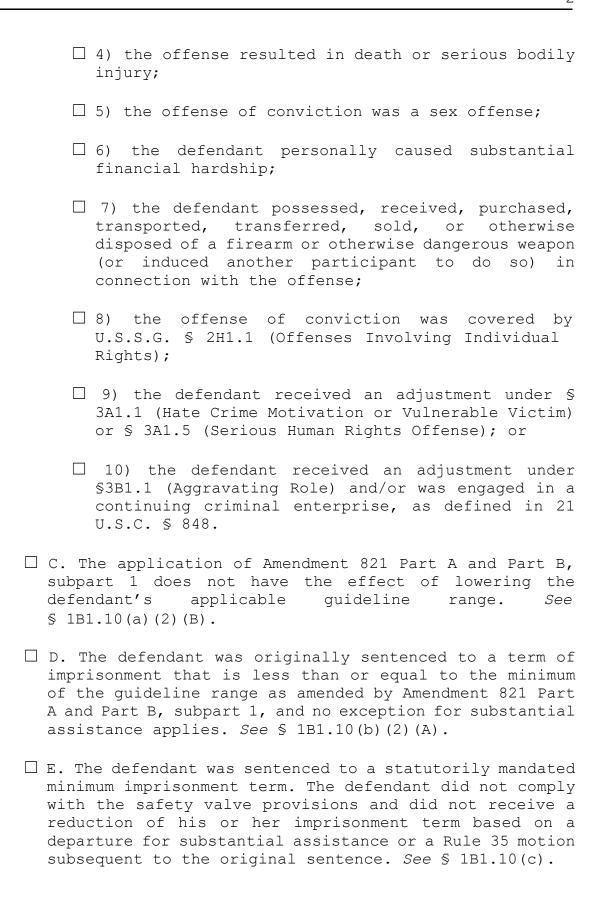
UNITED STATES OF AMERICA,	
Plaintiff	Criminal No. <u>17-cr-627-1-CVR</u>
V.	
Alexander Gabriel Vega- Valentin,	
Defendant	

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION Re: Amendment 821

The below report and recommendation relates to an initial determination as to the defendant's eligibility for a sentencing reduction promulgated by the United States Sentencing Commission under Part A and Part B, Subpart 1 of Amendment 821 to Policy Statement \S 1B1.10(d).

After careful review of the defendant's presentence report, charging document(s), plea agreement, plea supplement, judgment, and statement of reasons, I recommend that:

\square The defendant is <u>not</u> eligible for a sentence reduction based on the following factor(s):
☐ A. The guidelines range that applied in the defendant' case was not determined by U.S.S.G. § 4A1.1(d) o defendant's status as a zero-point offender unde Chapter 4, Part A.
\square B. The defendant does not meet <u>all</u> of condition specified by § 4C1.1. Specifically, one or more of th following criteria applies:
\Box 1) the defendant has criminal history points from Chapter Four, Part A;
☐ 2) the defendant received an adjustment under U.S.S.G. § 3A1.4 (Terrorism);
\Box 3) the defendant used violence or credible threats of violence in connection with the offense;



Since a determination of ineligibility has been made, the matter is formally submitted to the presiding District Court Judge. Defense counsel, whether retained, appointed, or pro bono, has fourteen days to object to the initial assessment of ineligibility. After the fourteen day period, and in the absence of an objection by defense counsel, the presiding District Court Judge may adopt the recommendation of the Magistrate Judge and may rule on the motion for reduction of sentence.

□ The defendant may be eligible for a sentence reduction and therefore the matter is referred to a United States District Judge.

The presiding judicial officer shall wait for the parties' stipulation of a sentence reduction within fourteen days. If no stipulation is reached within this period, the presiding judicial officer shall wait for the United States Probation Office, defense counsel, and the Government's memoranda, which shall be filed within another fourteen days.

Reasons: Defendant pled guilty to interfering with commerce by threats or violence (Count One) and using a firearm in connection with that activity (Count Two). He received the mandatory minimum 84-month sentence for Count Two. Dkt. 53 (Statement of Reasons) at 1.

As for Count One, Defendant received 3 criminal history points, 2 of which were because he committed the instant offense while under a criminal justice sentence. Dkt. 44 (PSR) at 10 ¶¶ 44-46. He was thus placed in criminal history category II. Id. Given his total offense level of 17, he had a guideline range of 27 to 33 months. Dkt. 53 at 1. Defendant received a 27-month sentence for Count One. Under Amendment 821, Defendant would not have received 2 points for committing the instant offense while under a criminal justice sentence. With 1 criminal history point, he would have been placed in criminal history category I, giving him a guideline range of 24 to 30 months. Accordingly, Defendant may be eligible for a sentence reduction.

IT IS SO RECOMMENDED.

In San Juan, Puerto Rico, this 14th day of February, 2024.

s/ Bruce J. McGiverin
BRUCE J. McGIVERIN

United States Magistrate Judge